

1 The Honorable Barbara J. Rothstein
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARYL ROGERS,

Plaintiff,

v.
SGT. HOWARD, *et al.*,

Defendants.

Case No. 3:23-cv-5806-TLF-BJR

**ORDER GRANTING MOTION TO
ALTER OR AMEND THE JUDGMENT**

I. INTRODUCTION

This matter comes before the Court on Plaintiff Daryl Rogers's Motion to Alter or Amend the Court's Order adopting the Report and Recommendation ("R&R") of Magistrate Judge Theresa L. Fricke. Having reviewed the motion, the relevant case law, and the record of the case, this Court will grant the motion.

II. BACKGROUND

Plaintiff initiated this action by filing a complaint in Grays Harbor Superior Court. Compl., Dkt. No. 1-2. Plaintiff asserted claims under both federal and state law. *Id.* Defendants removed the case to this Court. Not. of Removal, Dkt. No. 1. Magistrate Judge Fricke issued an R&R that recommended dismissal of Plaintiff's complaint as duplicative of *Daryl Rogers v. Washington Department of Corrections, et al.*, 3:21-cv-05011-BJR-TLF and *Daryl Rogers v. Howard, et al.*,

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1 3:21-cv-05311-BJR. R&R at 5, Dkt. No. 7. On September 19, 2024, this Court adopted the R&R
2 and dismissed the instant case without prejudice as duplicative. Or. Adopting R&R, Dkt. No. 8.

3 On November 14, 2024, this Court received and entered on its docket Plaintiff's Motion to
4 Alter or Amend the Judgment pursuant to Federal Rule of Civil Procedure 59(e). Pl.'s Mot. to Alter,
5 Dkt. No. 9. On January 15, 2025, this Court entered a separate judgment on the September 19, 2024
6 Order adopting the R&R. Jdmt., Dkt. No. 11.

7 III. LEGAL STANDARD

8 Pursuant to Western District of Washington Local Rule 7(h)(1), motions for reconsideration
9 are disfavored and will ordinarily be denied unless there is a showing of: (1) manifest error in the
10 ruling, or (2) new facts or legal authority that could not have been brought to the attention of the
11 court earlier, through reasonable diligence. L.R. 7(h)(1). Motions for reconsideration serve a limited
12 function. “[T]he major grounds that justify reconsideration involve an intervening change of
13 controlling law, the availability of new evidence, or the need to correct a clear error or prevent
14 manifest injustice.” *Pyramid Lake Paiute Tribe v. Hodel*, 882 F.2d 364, 369 n.5 (9th Cir. 1989)
15 (alteration in original) (quoting 18 C. Wright, A. Miller & E. Cooper, *Federal Practice and*
16 *Procedure* § 4478 at 790).

17 IV. DISCUSSION

18 A. Plaintiff's Motion to Alter or Amend the Judgment is Timely

19 Plaintiff's Motion to Alter or Amend the Judgment asks that the Court amend the Judgment
20 to remand Plaintiff's state law claims. Pl.'s Mot. to Alter at 4. Defendants respond that the Motion
21 should be denied as untimely because it was not filed within 28 days of the Court's
22 September 19, 2024 Order adopting the R&R. Defs.' Resp. at 2-3, Dkt. No. 10. However,
23 Defendants misunderstand the time limit imposed by Rule 59(e).

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1 “A motion to alter or amend a judgment must be filed no later than 28 days *after the entry*
 2 *of the judgment.*” Fed. R. Civ. P. 59(e) (emphasis added). However, Federal Rule of Civil Procedure
 3 58(a) provides that “[e]very judgment and amended judgment must be set out in a separate
 4 document,” except orders disposing of certain motions. *Id.* R. 58(a). Furthermore, under
 5 Rule 58(c)(2), when a separate document is required by Rule 58(a), a judgment is deemed entered
 6 when it is entered in the civil docket consistent with Federal Rule of Civil Procedure 79(a), and
 7 either set forth on a separate document or 150 days have passed from entry of the judgment on the
 8 civil docket, whichever is earlier. *Id.* R. 58(c)(2).

9 Here, the district court was required to set out its Order adopting the R&R in a separate
 10 document, which it did on January 15, 2025. *See id.* R. 58(a); Jdmt. As such, Plaintiff’s Motion to
 11 Alter or Amend the Judgment was filed well within Rule 59(e)’s 28-day deadline.¹ *See Or. Adopting*
 12 *R&R; Pl.’s Mot. to Alter; Jdmt.; Fed. R. Civ. P. 58(a), (c)(2), 59(e); see also Lewis v. U.S. Postal*
 13 *Serv.*, 840 F.2d 712, 713 (9th Cir. 1988) (holding that a premature Rule 59 motion which was filed
 14 “after the district court’s oral announcement of its decision but before there was a written order or
 15 separate entry of judgment” is not ineffective).

16 **B. Principles of Economy, Convenience, Fairness, and Comity Weigh in Favor of
 17 Remand**

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 19 ¹ Additionally, Plaintiff is correct that, if the relevant judgment was deemed entered on
 20 September 19, 2024, Plaintiff’s Motion to Alter or Amend the Judgment would still be timely under
 21 the prison mailbox rule. *See Pl.’s Reply*, Dkt. No. 12; *Or. Adopting R&R; Pl.’s Mot. to Alter* at 5-6
 22 (showing that Plaintiff signed the Motion on October 14, 2024, and that the filing was postmarked
 23 on October 17, 2024); *Houston v. Lack*, 487 U.S. 266, 276 (1988) (announcing the prison mailbox
 24 rule); *Williams v. Davis*, No. 14-0047, 2015 WL 493807, at *1 (N.D. Cal. Feb. 4, 2015) (“Applying
 25 the prison mailbox rule, the Court assumes for present purposes that [Plaintiff] gave his petition to
 prison officials to mail on the date he signed it”); *Allah v. Rutledge*, No. 17-1748, 2020 WL
 8410446, at *2 (C.D. Cal. Aug. 24, 2020) (applying the prison mailbox rule to a Rule 59(e) motion);
Wilson v. Arizona, No. 18-01663, 2019 WL 11025895, at *1 (D. Ariz. Apr. 4, 2019) (same).

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1 When a federal district court declines to exercise supplemental jurisdiction over state law
2 claims, it has discretion to either dismiss the claims or remand them to state court. *See*
3 *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 357 (1988); *Harrell v. 20th Century Ins. Co.*, 934
4 F.2d 203, 205 (9th Cir. 1991); *Koontz Coal. v. City of Seattle*, No. 14-0218, 2014 WL 5384434,
5 at *7 (W.D. Wash. Oct. 20, 2014) (“The decision whether to remand to state court is in the court’s
6 discretion.”). In making such a determination, the court should consider which action will best serve
7 “the principles of economy, convenience, fairness, and comity.” *Cohill*, 484 U.S. at 357.
8 Additionally, “remand generally will be preferable to a dismissal when the statute of limitations on
9 the plaintiff’s state-law claims has expired before the federal court has determined that it should
10 relinquish jurisdiction over the case.” *Id.* at 351-52.

11 Here, Plaintiff argues that principles of economy, convenience, fairness, and comity weigh
12 in favor of remand rather than dismissal. Pl.’s Mot. to Alter at 1-4. Plaintiff asserts that dismissal
13 of his state law claims in this case would bar him from refiling those claims due to the expiration
14 of the statute of limitations. *Id.* at 3. Plaintiff further argues that remanding his state law claims
15 would avoid duplicative litigation efforts and the costs and delays that would result from starting
16 the case anew. *Id.* Given these contentions, the Court finds that the principles of economy,
17 convenience, fairness, and comity weigh in favor of remanding Plaintiff’s state law claims, and that
18 remand of those claims is necessary to prevent manifest injustice. *See Cohill*, 484 U.S.
19 at 351-52, 357; *Hodel*, 882 F.2d at 369 n.5.

20 **V. CONCLUSION**

21 Accordingly, the Court hereby ORDERS as follows:

22 (1) Plaintiff’s Motion to Alter or Amend the Judgment (Dkt. No. 9) is GRANTED.

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- (2) The portion of the Court's Order dismissing Plaintiff's state law claims without prejudice (Dkt. No. 8) is VACATED.²
- (3) Those state law claims are instead REMANDED to Grays Harbor Superior Court.
- (4) The Clerk of Court shall subsequently enter an amended judgment consistent with this Order, as all remaining issues and claims have been resolved.
- (5) The Clerk of Court is directed to take all necessary action to remand Plaintiff's state law claims to Grays Harbor Superior Court with reference to that court's case number: 23-2-00437-14.

DATED this 23rd day of January 2025.

Barbara Rothstein

Barbara Jacobs Rothstein
U.S. District Court Judge

² Plaintiff's state law claims include Counts 4 through 7 of the Complaint. Compl. at 21-27.

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